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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/912,723

07/23/2001

Mark A. Lauer

LAUM-004

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11/02/2005

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EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT

PAPER NUMBER

2652

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/912,723	Applicant(s) LAUER, MARK A.	
	Examiner William J. Klimowicz	Art Unit 2652	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 11 October 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☒ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

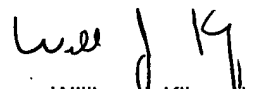
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: NONE.
 Claim(s) objected to: NONE.
 Claim(s) rejected: 1-4, 6-14 and 17-29.
 Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____


 William J. Klimowicz
 Primary Examiner
 Art Unit: 2652

Continuation of 3. NOTE: The proposed amendment to the drawings, particularly Figure 20, and the modification of at least paragraph [0067] in conjunction therewith, would be objected to under 35 U.S.C. 132(a), if entered, because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The arbitrary addition of a major surface 401, as attempted to be introduced into FIG. 20, is shown to be completely planar and extending across the entirety of the wafer width, yet portions of the slider wafer must clearly extend beyond such a plane.

That is, e.g., FIGS. 1 and 20 of Applicant's specification clearly show wherein the head (33) and substrate layer and the rear portion of pad (50) itself, extend beyond the transducer layers (40) and (44). That is, the transducer layers appear to be formed on and within the substrate, on a major surface of the slider wafer, which is recessed into a portion of the slider. In fact, it cannot be ascertained as to how no part of the substrate is disposed further than the transducer (40, 44) from the actuator, as seen in FIGS. 1 and 20. Clearly the very end of the slider wafer substrate adjacent designator (33) in FIG. 20 extends above the planar arbitrary surface (401). Is the distal end portion of the slider farthest from the actuator (410) in FIG. 20, and the gimbal itself -- a major portion of which clearly extends farther from the actuator than the transducer (40, 44) as depicted in the Applicant's originally filed disclosure -- somehow not part of wafer substrate; and if not, then what is it made of? Does the "major surface" as set forth originally in the Applicant's disclosure, required to now be a planar surface extending across the entire width of the of a portion of the slider distal surface, with no deviations from planarity?

As set forth previously by the Examiner, if there is no new matter, the Applicant must present all such FIGs. analogous to FIG. 1 and FIG. 20 clearly and unambiguously disclosing that the substrate can have no portion beyond the layer (44) (e.g., showing layers (44 and (44) formed on a dotted line, wherein the dotted line indicates the end of the substrate with the transducers layers formed within a protection layer.

How this affects the lead layers (56-59) is, however, unclear. Are these layers (56-59) to be also within a protective layer formed on the substrate? This would seem inconsistent with Applicant's own disclosure in paragraph [0044], wherein it is specifically stated "leads 56, 57, 58 and 59 [are] disposed in gimbal elements 35." Applicant should very carefully review the specification and drawings and ensure that no new matter is presented that would conflict with the original drawings and disclosure.

Since the proposed amendments to the drawings introduce new matter not supported by the disclosure as originally filed, the proposed After-Final amendment filed on October 3, 2005 will not be entered..